



Federal Communications Commission
Washington, D.C. 20554

March 23, 2007

DA 07- 1391

Released: March 23, 2007

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Media General Communications Holdings, LLC
WCBD-TV
333 East Franklin Street
Richmond, VA 23219

Re: Media General Communications Holdings, LLC
WCBD-TV, Charleston, SC
Facility ID No. 10587
File No. BRCT-20040802BCU

Dear Licensee:

This refers to your license renewal application for station WCBD-TV, Charleston, SC.

Under the Commission's rules implementing the Children's Television Act of 1990 (CTA),¹ each television broadcast station licensee has an obligation, during its license term, to air programming that serves the educational and informational needs of children through both the licensee's overall programming and programming "specifically designed" to educate and inform children (core programming).² The Commission's rules require commercial licensees to provide information to the public about the shows they air to fulfill their obligation. Subsection 73.3526(e)(11)(iii) of the Commission's Rules (Rules) requires each commercial television broadcast station to prepare and place in its public inspection file a Children's Television Programming Report (FCC Form 398) for each calendar quarter reflecting, *inter alia*, the efforts it has made during the quarter to serve the educational needs of children.³ As set forth in Subsection 73.3526(e)(11)(iii), licensees are also required to file the reports with the Commission and to publicize for the public the existence and location of the reports.

Moreover, in the CTA, Congress directed the Commission to adopt rules, *inter alia*, limiting the number of minutes of commercial matter that television stations may air during children's programming, and to consider in its review of television license renewals the extent to which the licensee has complied with such commercial limits. Pursuant to this statutory mandate, the Commission adopted Section 73.670 of the Rules which limits the amount of commercial matter

¹ Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. Sections 303a, 303b and 394.

² 47 C.F.R. § 73.671.

³ 47 C.F.R. § 73.3526(e)(11)(iii).

which may be aired during children's programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays.⁴

On August 2, 2004, you filed the above-referenced license renewal application for station WCBD-TV. In Exhibit 1(b) and in a March 2, 2006 amendment to the renewal application, you indicated that due to a misinterpretation of the Commission's requirements, station WCBD-TV stopped publicizing the existence and location of its Children's Television Programming Reports during the license term. You claimed that, as a result of employee turnover, it could not be determined when the station ceased publicizing the existence and location of its Children's Television Programming Reports. You also stated that this error was discovered during preparation of the renewal application in July 2004, and that station WCBD-TV began efforts on July 12, 2004 to comply with this requirement.

In addition, in response to Section IV, Question 5 of the renewal application, you stated that, during the previous license term, station WCBD-TV failed to comply with the limitations on commercial matter in children's programming specified in Section 73.670 of the Commission's Rules. In Exhibit 1 and in a March 6, 2007 amendment to the renewal application, you stated that station WCBD-TV exceeded the children's television commercial limits on three occasions between June 4, 2005, and December 23, 2006. Of those overages, two were 15-seconds in duration. You maintained that station WCBD-TV has taken steps to prevent further overages.

Further, you reported that on December 23, 2006, station WCBD-TV aired a CW Network commercial for Post Cereal's Cocoa Pebbles during the "Xiaolin Showdown" program. You stated that this commercial contained images from Post Cereal's postopia.com website, including images of the website's navigation bar. You indicated that the navigation bar included "very small images of characters from the "Xiaolin Showdown" program." You maintained that these characters were visible for a very short period of time. You contended that "other than the fleeting appearances of the small images of characters from the "Xiaolin Showdown" program," there is no connection between the "Xiaolin Showdown" program and the postopia.com website or the Cocoa Pebbles commercial. As a result, you asserted, this occurrence appears to constitute a violation of the Commission's host-selling policy. Nonetheless, you argue that you should not be sanctioned for this incident because as a CW affiliate, station WCBD-TV was "not involved in the selection, planning or approval of the network-provided commercials" aired during the "Xiaolin Showdown" program. Also, you contended that a sanction would be inappropriate in this instance since station WCBD-TV could not have anticipated that the CW Network would broadcast material that would violate the children's television commercial limits.

As a preliminary matter, we note that Congress was particularly concerned about program-length commercials because young children often have difficulty distinguishing between commercials and programs. S. Rep. No. 227, 101st Cong., 1st Sess. 24 (1989). Thus, the Commission made it clear that program-length commercials, by their very nature, are extremely serious violations of

⁴ *Children's Television Programming*, 6 FCC Rcd 2111, 2118, *recon. granted in part*, 6 FCC Rcd 5093, 5098 (1991).

the children's television commercial limits, stating that the program-length commercial policy "directly addresses a fundamental regulatory concern, that children who have difficulty enough distinguishing program content from unrelated commercial matter, not be all the more confused by a show that interweaves program content and commercial matter."⁵ Accordingly, in interpreting and applying the Commission's policies regarding program-length commercials, we are concerned about and dealing with the cognitive abilities of young children, not adults.⁶

With respect to station WCBD-TV's broadcast of the commercial for Cocoa Pebbles during the "Xiaolin Showdown" program, although you stated that characters from the "Xiaolin Showdown" program appeared briefly during the Cocoa Pebbles commercial, it is well-established that the determination as to whether a particular program is a program-length commercial is not dependent on the duration of the appearance of the program-related product in the commercial announcement. The Commission has stated on numerous occasions that, where a commercial announcement includes a product related to the program in which the commercial is broadcast, then the program is a program-length commercial regardless of the duration of the appearance of the program-related product in the commercial.⁷ Moreover, we think that there is the potential for confusion between the Cocoa Pebbles commercial and the "Xiaolin Showdown" program since the commercial includes images of characters from the "Xiaolin Showdown" program.

In addition, the reason offered for the program-length commercial does not mitigate or excuse it. Specifically, the fact that the program-length commercial was inserted into the program by station WCBD-TV's television network, does not absolve Media General Communications Holdings, LLC's (Media General) responsibility for the violation. The Commission has consistently held that a licensee's reliance on a program's source or producer for compliance with our children's television rules and policies will not excuse or mitigate violations which do occur.⁸ While corrective actions may have been taken to prevent subsequent violations of the television rules and policies, this does not relieve Media General of liability for the violations which have occurred.

Based upon the record before us, the violations of Sections 73.3526(e)(11)(iii) and 73.670 described in your renewal application appear to have been isolated occurrences. Although we do

⁵ *Children's Television Programming*, 6 FCC Rcd at 2118.

⁶ See, e.g., *Scripps Howard Broadcasting Company (KNXV-TV)*, 9 FCC Rcd 2547 (1994), *aff'd* 12 FCC Rcd 19504, 19505 (MMB 1997).

⁷ *UTV of San Francisco, Inc. (KBHK-TV)*, 10 FCC Rcd 10986, 10988 (1995); see also *WPIX, Inc.*, 14 FCC Rcd 9077 (MMB 1999) (commercial for "Spirit of Mickey" home video showing brief image of Donald Duck on cover of video aired during "Quack Pack" program); *Act III Broadcasting License Corp. (WUTV-TV)*, 10 FCC Rcd 4957 (1995), *aff'd*, 13 FCC Rcd 10099 (MMB 1997) (commercial for a fast food restaurant promoting a trip to Disney World as a contest prize contained a brief image of Goofy and aired during the program "Goof Troop").

⁸ See, e.g., *Max Television of Syracuse, L.P. (WSYT-TV)*, 10 FCC Rcd 8905 (MMB 1995); *Mt. Mansfield Television, Inc. (WCAX-TV)*, 10 FCC Rcd 8797 (MMB 1995); *Boston Celtics Broadcasting Limited Partnership (WFXT-TV)*, 10 FCC Rcd 6686 (MMB 1995).

not rule out more severe sanctions for violations of this nature in the future, we have determined that an admonition is appropriate at this time. Therefore, based upon the facts and circumstances before us, we ADMONISH you for the admitted violations of Sections 73.3526(e)(11)(iii) and 73.670 of the Rules described in station WCBD-TV's renewal application.

Accordingly, IT IS ORDERED that, a copy of this Letter shall be sent by First Class and Certified Mail, Return Receipt Requested to Media General Communications, Inc. at the address listed above, and to its counsel, Kevin P. Latek, Esquire, Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, N.W., Suite 800, Washington, D.C. 20036.

Sincerely,

Barbara A. Kreisman
Chief, Video Division
Media Bureau